

SECTION 2: AUTHORITY OF DECISION-MAKERS

SECTION 2.01 GENERAL PROVISIONS

- (a) **Source of Authority.** Authority under this Subdivision Ordinance shall be vested in and delegated to the officials and decision-makers designated in this Section 2 and under the City's charter, the constitution and laws of the State of Texas, and the Municipal Code. This authority shall be deemed supplemental to any other authority lawfully conferred upon the officials and decision-makers. The omission of a citation in this Subdivision Ordinance to any authority conferred upon the officials and decision-makers under the City's charter, the constitution or laws of the State of Texas, or the Municipal Code, or the failure to identify in this article authority conferred by other provisions of this Subdivision Ordinance, shall not be construed as limiting the actions of such officials and decision-makers taken in accordance with and in reliance upon such authority.
- (b) **Implied Authority.** The officials and decision-makers shall have all implied authority necessary to carry out the duties and responsibilities expressly delegated by Chapter 212 of the Texas Local Government Code and this Subdivision Ordinance, to the extent that the implied authority is not in conflict with the expressly delegated authority.
- (c) **Limitation on Authority.**
- (1) City Policy. It is the policy of the City that the standards and procedures applicable to development of property within the City limits and within the City's ETJ are as stated in this Subdivision Ordinance, notwithstanding any representation by any City official summarizing, paraphrasing or otherwise interpreting such standards to the contrary, whether generally or as applied to development of specific property.
 - (2) Representations. The applicant shall not rely on any representation made by an employee of the City, a member of an appointed board or commission, or a member of the City Council concerning the likelihood of an outcome of that official's decision or the decision of an appointed board or commission or the City Council, on any application that has yet to be filed or is pending before the City. An official may, however, convey information concerning that official's position on a pending application in accordance with his/her role as the responsible official (Section 2.02) for such application or as the City staff contact person.
 - (3) Effect of Comprehensive Plan, Ordinance or Development Standard on Liability Claims. The City's approval of an application under the standards and procedures of this Subdivision Ordinance does not guarantee or ensure that development of the property in accordance with the standards will prevent, minimize or mitigate harm to adjoining property. A person who undertakes development activities shall not rely on the City's approval of an application as ensuring that the development activities will not result in harm to adjoining property. The regulations contained in this Subdivision Ordinance constitute an exercise of the City's governmental authority, and approval of an application shall not give rise to any liability on the part of the City or its officers, agents and employees, nor will an approval release the



applicant from any liability for harm arising out of development of the property under applicable law.

- (4) **No Waivers.** Except as expressly provided for in this Subdivision Ordinance, no official, board or commission of the City, or the City Council, shall have authority to waive any requirement or standard for an application. Any attempted waiver of a requirement or standard for an application in contravention of this Section shall hereby be deemed null and void, and, upon discovery, shall be grounds for revocation of a permit or approved application.

- (d) **Conflict in Authority.** If any of the provisions of this Subdivision Ordinance are in apparent conflict, the Director of Development Services shall, after due consideration as to the purpose and intent of each conflicting provision, make a determination as to which provision shall apply. The Director of Development Services shall make every effort to be fair and consistent in such interpretations, and his/her decision may be appealed to the City Manager (see Section 2.06), unless otherwise noted within.

SECTION 2.02 RESPONSIBLE OFFICIAL ASSIGNED

- (a) **Responsible Official.** The responsible official shall be the Director of a designated City department who is assigned responsibility under this Subdivision Ordinance for taking the following actions with regard to a particular type of application authorized under this Subdivision Ordinance:
- (1) Accepting the application for filing, and processing the application;
 - (2) Reviewing and making recommendations concerning the application;
 - (3) Seeking advice of other City departments, and coordinating any recommendations from such departments concerning the application;
 - (4) Determining a request for exemption;
 - (5) Preparing reports to and advising any board, commission or the City Council that has responsibility for making recommendations on or deciding the application;
 - (6) Promulgating additional or modified policies, standards and administrative rules for adoption by the City Council that apply to the application;
 - (7) Initiating enforcement actions concerning compliance with the standards applicable to the application and the conditions imposed thereon; and
 - (8) Taking all other actions necessary for administration of the provisions of this Subdivision Ordinance with respect to the application or petition.
- (b) **Delegation.** The responsible official may delegate the official's authority under this Subdivision Ordinance to subordinate officials, who shall thereupon be deemed the responsible official for purposes of carrying out the delegated duties.

SECTION 2.03 DIRECTOR OF DEVELOPMENT SERVICES

- (a) **Responsible Official.** The Director of Development Services is the responsible official for the following types of applications, waivers and petitions:
- (1) Review and approval for any type of plat;
 - (2) Waiver of Right to 30-Day Action;
 - (3) Extension of a plat approval;
 - (4) Major and Minor Waivers related to an application;
 - (5) Appeal of a decision on any application for which the Director of Development Services is the responsible official;
 - (6) Appeal of a decision on any application for which the Commission is the initial decision-making body; and
 - (7) Vested rights petition for any application when the Director of Development Services is the responsible official.
- (b) **Initial Decision-Maker.** The Director of Development Services is the initial decision-maker for the following types of applications (subject to any appeal):
- (1) Minor Plat, as outlined in Section 4.05;
 - (2) Amending Plat, as outlined in Section 4.08;
 - (3) Extension for a Preliminary Plat approval, as outlined in Section 4.02(j);
 - (4) Certain types of Minor Waivers, as outlined in Section 9.01;
 - (5) Vested rights petition for an application for which the Director of Development Services is the initial decision-maker;
 - (6) Building Permit; and
 - (7) Certificate of Occupancy.

SECTION 2.04 DIRECTOR OF ENGINEERING SERVICES

- (a) **Responsible Official.** The Director of Engineering Services is the responsible official for the following types of applications:
- (1) Review of Construction Plans, including all engineering plans and related construction tasks, including approval of contracts for public improvements, as outlined in Section 5.01;
 - (2) Extension for Construction Plans, as outlined in Section 5.01(h);
 - (3) Construction Release, as outlined in Section 5.01(i);
 - (4) Improvement Agreement, as outlined in Section 5.04;



- (5) Appeal related to an application for which the Director of Engineering Services is the responsible official;
 - (6) Certain types of Minor Waivers (related to construction requirements), as outlined in Section 9.01;
 - (7) Vested rights petition for an application for which the Director of Engineering Services is the responsible official; and
 - (8) Petition for a proportionality appeal, as outlined in Section 9.02.
- (b) **Initial Decision-Maker.** The Director of Engineering Services is the initial decision-maker for the following types of applications (subject to any appeal):
- (1) Approval of Construction Plans, including all engineering plans and related construction management tasks, including approval of contracts for public improvements;
 - (2) Construction Release;
 - (3) Extension for Construction Plans approval;
 - (4) Certain types of Minor Waivers (related to construction requirements), as outlined in Section 9.01; and
 - (5) Vested rights petition for an application for which the Director of Engineering Services is the initial decision-maker.

SECTION 2.05 DIRECTOR OF PARKS & RECREATION

- (a) **Responsible Official and Initial Decision-Maker.** The Director of Parks & Recreation is the responsible official for the review and recommendation to the Parks & Recreation Board, and for carrying out the Parks & Recreation Board's decisions, on the following types of applications:
- (1) Acceptance of fees in lieu of parkland dedication;
 - (2) The portion of an application showing where park land, including trails, is to be dedicated, and whether such dedication is acceptable;
 - (3) Any other portions of applications showing items required by Section 8.12.

SECTION 2.06 CITY MANAGER & OTHER OFFICIALS

- (a) **City Manager.**
- (1) Appeals. The City Manager is the appellate decision-maker for any appeal for which a City staff person is the initial decision-maker, subject to further appeal as may be provided for in any subsequent sections of this Subdivision Ordinance.
- (b) **Fire Chief.** No provision contained in this Subdivision Ordinance shall be deemed or interpreted as a limitation on the Fire Chief's exclusive authority as set forth in the International Fire Code.
- (c) **Other City Officials.** The City Attorney and any other official delegated responsibilities under this Subdivision Ordinance or other provisions of the Municipal Code are authorized to take all actions

necessary to carry out their responsibilities in accordance with the requirements and limitations prescribed herein.

SECTION 2.07 PLANNING & ZONING COMMISSION

- (a) **Organization, Powers & Duties.** The Planning & Zoning Commission (also referred to as Commission) shall hold meetings and have the powers and duties as provided for in the Municipal Code of the City (Part One, Article IX. Planning & Zoning Commission), and as authorized by Chapter 211 or 212 of the Texas Local Government Code. Such powers and duties shall include exercising all the authority and control conferred by law relating to platting.
- (b) **Duties of the Director of Development Services.** The Director of Development Services shall act as the staff liaison to the Commission, and shall abide by the City's usual record-keeping and retention policies for boards and commissions, as amended, in maintaining records of the Commission's meetings and actions.
- (c) **Authority for Deciding Applications.** The Commission shall have the authority to act on the following types of applications:
 - (1) Preliminary Plat;
 - (2) Final Plat;
 - (3) All other types of plats, with the exception of Minor Plats and Amending Plats (which may be decided by the Director of Development Services unless deferred to the Commission).
- (d) **Authority for Deciding Appeals.** The Commission shall hear and decide the following appeals:
 - (1) Any Major Waiver petition on an application for a Preliminary Plat, Final Plat or Replat, except when such Waiver is a proportionality appeal, in which case Section 9.02 of this Subdivision Ordinance shall apply;
 - (2) Minor Plat or Amended Plat that is deferred by the Director of Development Services, as outlined in Section 4.05(h) or Section 4.08(i), as applicable;
 - (3) A vested rights petition that is deferred by the Director of Development Services or the Director of Engineering Services, as outlined in Section 9.03(g)(3);
 - (4) Any other appeal so authorized by this Ordinance.

SECTION 2.08 CITY COUNCIL

- (a) **Authority for Deciding Applications and Appeals.** The City Council shall hear and decide appeals from decisions made by the Commission when such appeals are authorized by this Ordinance.



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